

The Gulf Companies

LAW DEPARTMENT

Gerald P. Thurmond
WASHINGTON COUNSEL

Suite 700
1025 Connecticut Ave., N. W.
Washington, D. C. 20036

9278
RECORDATION NO. Filed & Recorded

MAY 16 1978 -9 45 AM May 15, 1978

BY HAND

INTERSTATE COMMERCE COMMISSION

Mrs. Mildred Lee
Interstate Commerce Commission
Room 1227
12th Street and Constitution Avenue, N.W.
Washington, D.C. 20423

Re: Equipment Lease between Gulf Oil
Financial Corporation, Lessor and
Gulf Oil Corporation, Lessee

Dear Mrs. Lee:

Confirming our conversation of today, I enclose herewith, for recording pursuant to §20(c) of the Interstate Commerce Act this equipment lease whereby Gulf Oil Financial Corporation leases to Gulf Oil Corporation 918 100-ton 5820 C.F.C. Quadruple Covered Hopper Cars, numbered beginning with GOCX 58000 and ending with GOCX 58917 all in accordance with the relevant regulations regarding railroad equipment utilized in interstate commerce.

Kindly record this lease and return a copy to me containing the recordation number as well as the date of the recordation.

Enclosed is our check payable to the Interstate Commerce Commission in the amount of \$50.00

Very truly yours,

1361011

No. MAY 16 1978

Date.....

Fee \$ 50.00

Washington, D. C.

GPT:SCB
Enclosures:
As stated

Gerald P. Thurmond



RECORDATION NO. 9275 Filed & Recorded

EQUIPMENT LEASE

MAY 16 1978 -9 45 AM

Dated as of May 12, 1978 ~~MIAMI~~ COMMERCE COMMISSION

Between

GULF OIL FINANCIAL CORPORATION

as Lessor

And

GULF OIL CORPORATION

as Lessee

TABLE OF CONTENTS

<u>Section</u>	<u>Heading</u>	<u>Page</u>
Parties		1
1.	Manufacture and Delivery of Equipment	1
1.1.	Intent to Lease and Hire	1
1.2.	Inspection and Acceptance	1
1.3.	Certificate of Acceptance	1
2.	Rentals and Payment Dates	2
2.1.	Rent for Equipment	2
2.2.	Rent Payment Dates	2
2.3.	Manner and Place of Payment	2
2.4.	Net Lease	3
3.	Term of the Lease	3
4.	Ownership and Marking of the Equipment	3
4.1.	Retention of Title	3
4.2.	Duty to Number and Mark Equipment	3
4.3.	Prohibition Against Certain Designations	4
5.	Disclaimer of Warranties	4
6.	Lessee's Indemnity	5
6.1.	Scope of Indemnity	5
6.2.	Continuation of Indemnities and Assumptions	6
7.	Rules, Laws and Regulations	6
8.	Use and Maintenance of Equipment	6
9.	Liens on the Equipment	7
10.	Filing, Payment of Fees and Taxes	7
10.1.	Filing	7
10.2.	Payment of Taxes	8
11.	Insurance; Payment for Casualty Occurrence for Equipment Unserviceable for Use	9
11.1.	Insurance	9
11.2.	Duty of Lessee to Notify Lessor	10

<u>Section</u>	<u>Heading</u>	<u>Page</u>
	11.3. Sum Payable for Casualty Loss	11
	11.4. Option Retirement of Equipment	11
	11.5. Rent Termination	12
	11.6. Disposition of Equipment	12
	11.7. Casualty Value	13
	11.8. Risk of Loss	13
	11.9. Eminent Domain	13
12.	Financial and Other Records	14
	12.1. Status Reports	14
	12.2. Lessor's Inspection Rights	14
13.	Return of Equipment Upon Expiration of Term	15
14.	Default	16
	14.1. Events of Default	16
	14.2. Cumulative Remedies	18
	14.3. Lessor's Failure to Exercise Rights	18
15.	Return of Equipment Upon Default	18
	15.1. Lessee's Duty to Return	18
	15.2. Specific Performance	19
	15.3. Lessor Appointed Lessee's Agent	19
16.	Assignment by Lessor	19
17.	Assignments by Lessee; Use and Possession	20
	17.1. Lessee's Rights to the Equipment	20
	17.2. Use and Possession by Lessee	20
	17.3. Merger, Consolidation or Acquisition of Lessee ...	21
18.	Lessor's Representations and Warranties	22
19.	Lessee's Representations and Warranties; Survival	23
	19.1. Representations and Warranties	23
	19.2. Survival	23
20.	Right of First Refusal and Option to Renew	23
	20.1. Right of First Refusal	23
	20.2. Renewal Options	24
	20.3. Delivery of Equipment	24

<u>Section</u>	<u>Headings</u>	<u>Page</u>
21.	Interest on Overdue Rentals and Amounts Paid by the Lessor	25
22.	Miscellaneous	25
22.1.	Notices	25
22.2.	Execution in Counterparts	25
22.3.	Law Governing	25
22.4.	Successors and Assigns	25
22.5.	Headings and Table of Contents	26
22.6.	Severability	26
Signature Page		26

Attachments to Equipment Lease:

Exhibit I - Certificate of Acceptance
Schedule A - Description of Equipment and Rental
Schedule B - Schedule of Casualty Value

EQUIPMENT LEASE

THIS EQUIPMENT LEASE dated as of May 12, 1978, between GULF OIL FINANCIAL CORPORATION, a Delaware corporation (the "Lessor") and GULF OIL CORPORATION, a Pennsylvania corporation (the "Lessee");

W I T N E S S E T H :

That for and in consideration of the premises and of the rental to be paid and the covenants hereinafter mentioned, the parties hereby agree as follows:

SECTION 1. MANUFACTURE AND DELIVERY OF EQUIPMENT.

1.1. Intent to Lease and Hire. The Lessor is acquiring certain equipment (collectively the "Equipment" or the "Items" and individually "Item" or "Item of Equipment") described in Schedule A attached hereto and made a part hereof and, upon delivery of each Item of Equipment, the Lessor shall lease and let such Item of Equipment to the Lessee and the Lessee shall hire such Item of Equipment from the Lessor for the rental and on and subject to the terms and conditions herein set forth.

1.2. Inspection and Acceptance. Upon delivery of each Item of Equipment the Lessee will inspect such Item of Equipment and if such Item of Equipment tendered for delivery meets the specifications, the Lessee will accept delivery thereof and execute and deliver to Pullman, Inc. (the "Manufacturer"), which is the Manufacturer of the Equipment, Sparks Industrial Service, Inc. ("Sparks"), which is applying a two coat interior lining to each Item of Equipment and the Lessor Certificates of Acceptance, substantially in the form of Exhibit I attached hereto and made a part hereof.

1.3. Certificate of Acceptance. The Lessee's execution and delivery to the Lessor of Certificates of Acceptance with respect to each Item of Equipment shall conclusively establish that, as between the Lessor and the Lessee, but without limiting or otherwise affecting the Lessee's rights, if any, against the Manufacturer or Sparks, each Item of Equipment is acceptable to and accepted by the Lessee under this Lease, notwithstanding any

defect with respect to design, manufacture, condition or in any other respect, and that each Item of Equipment is in good order and condition and appears to conform to the specifications applicable thereto and all applicable United States Department of Transportation and Interstate Commerce Commission requirements and specifications, if any. The Lessee represents that upon execution and delivery of such Certificate of Acceptance, the Lessee shall have no knowledge of any such defect as of the date of such acceptance.

SECTION 2. RENTALS AND PAYMENT DATES.

2.1. Rent for Equipment. The Lessee agrees to pay the Lessor the following rent for each Item of Equipment:

(a) Fixed Rental. For each Item of Equipment, forty (40) semiannual installments of fixed rental ("Fixed Rental") payable in arrears in the amounts provided for in Schedule A hereto; and

(b) Interim Rental. For each Item of Equipment, an amount per day (the "Interim Rental") equal to .01672% of the Purchase Price thereof (as set forth in Schedule A hereto) for the period, if any, from the date payment is made to the Manufacturer for such Item of Equipment, to, but not including January 1, 1979 (the "Term Lease Commencement Date").

2.2. Rent Payment Dates. The first installment of Interim Rental shall be due and payable on July 1, 1978, and the other such installment shall be due and payable on the Term Lease Commencement Date. The installments of Fixed Rental for all Items of Equipment shall be due and payable on January 1 and July 1 in each year commencing July 1, 1979, to and including January 1, 1999.

If any of the rent payment dates is not a business day, the rent payment otherwise payable on such date shall be payable on the next succeeding business day. For purposes of this Lease, the term "business day" means calendar days, excluding Saturdays, Sundays and holidays on which banks in the States of Texas or New York are authorized or required to close.

2.3. Manner and Place of Payment. The Lessee agrees that it will pay all Interim Rental, Fixed Rental and Casualty Values due hereunder to the Lessor in immediately available funds at such a place as Lessor may from time to time designate in writing not later than the due date of such payment. Any other sums to be paid by the Lessee hereunder shall be made by check payable to the order of the party to receive the same and mailed thereto at its last known address.

2.4. Net Lease. This Lease is a net lease and the Lessee shall not be entitled to any abatement of rent or reduction thereof, including, but not limited to, abatements or reductions due to any present or future claims of the Lessee against the Manufacturer or the Lessor under this Lease or otherwise, nor, except as otherwise expressly provided herein, shall this Lease terminate, or the respective obligations of the Lessor or the Lessee be otherwise affected, by reason of any defect in or damage to or loss or destruction of all or any of the Equipment from whatsoever cause, the taking or requisitioning of the Equipment by condemnation or otherwise, the lawful prohibition of the Lessee's use of the Equipment, the interference with such use by any private person or corporation, any strike or other labor dispute, the invalidity or unenforceability or lack of due authorization or other infirmity of this Lease, or lack of right, power or authority of the Lessor to enter into this Lease, or for any other cause whether similar or dissimilar to the foregoing, any present or future law to the contrary notwithstanding, it being the intention of the parties hereto that the rents and other amounts payable by the Lessee hereunder shall continue to be payable in all events unless the obligation to pay the same shall be terminated pursuant to Section 11 hereof, or until, pursuant to Section 13 hereof, the Equipment is placed and ready for delivery to the Lessor or is stored for the Lessor or is en route to delivery to the Lessor.

SECTION 3. TERM OF THE LEASE.

The term of this Lease as to each Item of Equipment shall begin on the date of delivery to and acceptance by the Lessee of such Item of Equipment and, subject to the provisions of Section 11 hereof, shall terminate 20 years following the Term Lease Commencement Date.

SECTION 4. OWNERSHIP AND MARKING OF THE EQUIPMENT.

4.1. Retention of Title. The Lessor, as between the Lessor and the Lessee, shall and hereby does retain full legal title to the Equipment notwithstanding the delivery thereof to and the possession and use thereof by the Lessee.

4.2. Duty to Number and Mark Equipment. The Lessee shall cause each Item of Equipment to be kept numbered with its road number as set forth in Schedule A and will keep and maintain, plainly, distinctly, permanently and conspicuously marked by a plate or stencil printed in contrasting color upon both sides of each Item of Equipment in letters not less than one inch in height as follows:

"GULF OIL FINANCIAL CORPORATION, OWNER
LEASED TO GULF OIL CORPORATION"

with appropriate changes thereof and additions thereto as from time to time may be required by law in order to protect the title of the Lessor to such Item of Equipment, its rights under this Lease and the rights of any assignee under Section 16 hereof. The Lessee will not place any such Item of Equipment in operation or exercise any control or dominion over the same (except to the extent necessary to mark any such Item in accordance with the requirements of this Section 4.2) until the required legend shall have been so marked on both sides thereof and will replace promptly any such names and word or words which may be removed, defaced or destroyed. The Lessee will not change the road number of any Item of Equipment except with the consent of the Lessor (which consent will not be unreasonably withheld) and in accordance with a statement of new road numbers to be substituted therefor, which consent and statement previously shall have been filed with the Lessor by the Lessee and filed, recorded or deposited in all public offices where this Lease shall have been filed, recorded or deposited.

4.3. Prohibition Against Certain Designations. Except as above provided, the Lessee will not allow the name of any person, association or corporation to be placed on the Equipment as a designation that might be interpreted as a claim of ownership; provided, however, that the Lessee or any party subleasing the Equipment pursuant to Section 17.2 hereof may cause the Equipment to be lettered with the names or initials or other insignia customarily used by the Lessee or its affiliates or such sublessee, as the case may be, on railroad equipment used by it of the same or a similar type for convenience of identification.

The Lessee shall indemnify the Lessor against any liability, loss or expense incurred by any of them as a result of the aforesaid marking of the Equipment with such name, initials or insignia.

SECTION 5. DISCLAIMER OF WARRANTIES.

THE LESSOR LEASES THE EQUIPMENT AS-IS, IN WHATEVER CONDITION IT MAY BE, WITHOUT ANY AGREEMENT, WARRANTY OR REPRESENTATION, EITHER EXPRESS OR IMPLIED BY THE LESSOR EXPRESSLY DISCLAIMING ANY WARRANTY OR REPRESENTATION, EITHER EXPRESS OR IMPLIED, AS TO (A) THE FITNESS FOR ANY PARTICULAR PURPOSE OR MERCHANTABILITY OF ANY ITEM OR ITEMS OF EQUIPMENT, INCLUDING BUT NOT LIMITED TO THEIR VALUE, CONDITION, DESIGN OR OPERATION, (B) THE DESIGN OR CONDITION OF, OR THE QUALITY OF THE MATERIAL, EQUIPMENT OR WORKMANSHIP IN, THE EQUIPMENT OR (C) ANY OTHER MATTER WHATSOEVER RELATING TO THE MATTERS SET FORTH IN CLAUSES (A) OR (B) HEREOF, IT BEING AGREED THAT ALL SUCH RISKS, AS BETWEEN THE LESSOR AND THE LESSEE ARE TO BE BORNE BY THE LESSEE. The Lessor hereby appoints and constitutes the Lessee its agent

and attorney-in-fact during the term of this Lease to assert and enforce (as the Lessee in its sole discretion deems appropriate) in the name and for the account of the Lessor and the Lessee, as their interests may appear, whatever claims and rights the Lessor may have as owner of the Equipment against the Manufacturer or Sparks, provided that the assertion and enforcement, if any, of such claims and rights will be at the sole cost and expense of the Lessee.

SECTION 6. LESSEE'S INDEMNITY.

6.1. Scope of Indemnity. The Lessee shall defend, indemnify and save harmless the Lessor and its successors and assigns from and against claims, causes of action, damages, liability, cost or expenses of Third Parties (as hereinafter defined):

(a) any and all loss or damage of or to the Equipment, usual wear and tear excepted, and

(b) any claim, cause of action, damages or liability, cost or expense (including without limitation reasonable counsel fees and reasonable costs in connection therewith) which may be incurred in any manner or by or for the account of any of them (i) relating to the Equipment or any part thereof, including without limitation the construction, purchase, delivery, leasing or return of the Equipment or as a result of the use, maintenance, repair, replacement, operation or the condition thereof (whether defects are latent or discoverable by the Lessor or by the Lessee), (ii) by reason or as the result of any act or omission of the Lessee for itself or as agent or attorney-in-fact for the Lessor hereunder, (iii) as a result of claims for patent infringements, or (iv) as a result of claims based upon warranty, breach of contract, negligence or other tortious liability, including without limitation, strict liability in tort. The Lessee understands and agrees that its obligations to purchase and maintain insurance in accordance with Section 11.1 of this Lease shall in no event constitute a release of the Lessee in respect of its obligations under this Section 6.

"Third Party" shall, for purposes of this Section 6.1, mean and include any individual, partnership, corporation, unincorporated organization or government or agency or political subdivision thereof, excepting only the Lessor and its respective successors and assigns (the "Indemnitees") if and to the extent any such Indemnatee is claiming for its own account and not directly or indirectly on behalf of any Third Party.

(c) Anything in this Section 6.1 to the contrary notwithstanding, the Lessee shall not be required to indemnify

any Indemnatee against any loss, damage, injury, claim or demand which arises out of or is caused by the gross negligence or willful misconduct of such Indemnatee.

6.2. Continuation of Indemnities and Assumptions.

The indemnities and assumptions of liability in this Section 6 contained shall continue in full force and effect notwithstanding the termination of this Lease, or the termination of the term hereof in respect of any one or more Items of Equipment, whether by expiration of time, by operation of law or otherwise; provided, however, that such indemnities and assumption of liability shall not apply after the termination of this Lease with respect to any matters referred to in subsection (a) or clauses (i), (ii) or (iv) of subsection (b) except for any such matters which arise in connection with the Lessee's assembling, delivering storing or transporting of the Equipment as provided in Section 13 or 15, as the case may be, or matters arising out of events occurring prior to such termination. The indemnities and assumptions of liabilities set forth in this Section 6 do not constitute a guarantee of residual value in the Equipment. The Lessee shall be entitled to control, and shall assume full responsibility for, the defense of such claim or liability.

SECTION 7. RULES, LAWS AND REGULATIONS.

The Lessee agrees to comply with all laws, regulations, requirements and rules of all governments, whether of the United States or countries foreign thereto or any State, province, territory or other political subdivision thereof having jurisdiction (including the rules of the United States Department of Transportation and the interchange rules of the Association of American Railroads) with respect to the title, use, maintenance and operation of each Item of Equipment subject to this Lease. In case any equipment or appliance on any such Item of Equipment shall be required to be changed or replaced, or in case any additional or other equipment or appliance is required to be installed on such Item of Equipment, in order to comply with such laws, regulations, requirements and rules, the Lessee agrees to make such changes, additions and replacements at its own expense.

SECTION 8. USE AND MAINTENANCE OF EQUIPMENT.

The Lessee shall use the Equipment only in the manner for which it was designed and intended and so as to subject it only to ordinary wear and tear. The Lessee shall, at its own cost and expense, maintain and keep the Equipment in good order, condition and repair, ordinary wear and tear excepted, suitable for use in interchange. The Lessee understands and agrees that

it will maintain or reapply, as the case may be, the two coat interior lining process to each Item of Equipment if and to the extent the same becomes necessary in order to comply with the terms of this Section 8. Except as required by the provisions of Section 7 hereof, the Lessee shall not modify any Item of Equipment without written authority and approval of the Lessor which shall not be unreasonably withheld.

Any parts installed or replacements made by the Lessee upon any Item of Equipment pursuant to the requirements of Section 7 or pursuant to the Lessee's obligation to maintain and keep the Equipment in good order, condition and repair pursuant to this Section 8 shall be considered accessions to such Item of Equipment and title thereto shall be immediately vested in the Lessor, without cost or expense to the Lessor.

The Lessor shall make no other additions or improvements to any Item of Equipment unless the same are readily removable without causing material damage to such Item. If the Lessee shall at its cost cause such readily removable additions or improvements to be made to any Item, the Lessee agrees that it will, prior to the return of such Item to the Lessor hereunder, remove the same at its expense without causing material damage to such Item. Title to any such readily removable additions or improvements shall remain with the Lessee.

SECTION 9. LIENS ON THE EQUIPMENT.

The Lessee shall pay or satisfy and discharge any and all claims against, through or under the Lessee and its successors or assigns which, if unpaid, might constitute or become a lien or a charge upon the Equipment, and any liens or charges which may be levied against or imposed upon any Item of Equipment as a result of the failure of the Lessee to perform or observe any of its covenants or agreements under this Lease, but the Lessee shall not be required to pay or discharge any such claims so long as it shall, in good faith and by appropriate legal proceedings, contest the validity thereof in any reasonable manner which will not affect or endanger the title and interest of the Lessor and the Assignee in and to the Equipment. The Lessee's obligations under this Section 9 shall survive termination of the Lease.

SECTION 10. FILING, PAYMENT OF FEES AND TAXES.

10.1. Filing. Prior to the delivery and acceptance of the first Item of Equipment, the Lessee will, at its sole expense, cause this Lease to be duly filed, registered or recorded in conformity with Section 20c of the Interstate Commerce Act and in such other places within or without Canada

and the United States as the Lessor may reasonably request for the protection of its title and will furnish the Lessor proof thereof, including without limitation opinions of such counsel as shall be reasonably deemed necessary by the Lessor. The Lessee will, from time to time, do and perform any other act and will execute, acknowledge, deliver, file, register and record (and will re-file, re-register, or re-record wherever and whenever required) any and all further instruments required by law or reasonably requested by the Lessor, for the purpose of protecting the Lessor's title to the Lease and Equipment to the satisfaction of the Lessor's counsel or for the purpose of carrying out the intention of this Lease, and in connection with any such action, will deliver or cause to be delivered to the Lessor proof of such filings, including without limitation, opinions of counsel reasonably satisfactory to the Lessor that such action has been properly taken. The Lessee will pay all costs, charges and expenses incident to any such filing, re-filing, registering, re-registering, recording, and re-recording of any such instruments or incident to the taking of such action, including reasonable attorney's fees.

10.2. Payment of Taxes. All payment to be made by the Lessee hereunder will be free of expense to the Lessor for collection or other charges and will be free of expense to the Lessor with respect to the amount of any local, state, Federal or foreign taxes (other than any United States Federal income tax, and state or local income tax or state or local receipts tax in lieu of an income tax [and, to the extent that the Lessor receives credit therefor against its United States Federal income tax liability, any foreign income tax] payable by the Lessor in consequence of the receipt of payments provided herein and other than the aggregate of all franchise and capital stock taxes measured by net income based on such receipts or net worth, up to the amount of any such taxes which would be payable to the state and city in which the Lessor has its principal place of business without apportionment to any other state, except any such tax which is in substitution for or relieves the Lessee from the payment of taxes which it would otherwise be obligated to pay or reimburse as herein provided), assessments or license fees and any charges, fines or penalties in connection therewith (hereinafter called "Impositions") hereafter levied or imposed upon or in connection with or measured by this Lease or any sale, rental, use, payment, shipment, delivery or transfer of title under the terms hereof or any security agreement, all of which Impositions the Lessee assumes and agrees to pay on demand in addition to the payments to be made by it provided for herein. The Lessee will also pay promptly all Impositions which may be imposed upon any Item of Equipment or for the use or operation thereof or upon the Lessee's earnings arising therefrom or upon the Lessor solely by reason of its ownership

thereof and will keep at all times all and every part of such Item of Equipment free and clear of all Impositions which might in any way affect the title of the Lessor or result in a lien upon any such Item of Equipment; provided, however, that the Lessee shall be under no obligation to pay any Impositions so long as it is contesting in good faith and by appropriate legal proceedings such Impositions and the nonpayment thereof does not, in the advance opinion of the Lessor and the Assignee, adversely affect the title, property or rights of the Lessor or such Assignee hereunder. If any Impositions shall have been charged or levied against the Lessor directly and paid by the Lessor, the Lessee shall reimburse the Lessor on presentation of an invoice therefor. Prior to making such payment, the Lessor shall promptly notify the Lessee of the Impositions charged or levied, and the Lessee shall have the opportunity to contest in good faith and by appropriate legal proceedings such Impositions, at its sole expense, but shall not be permitted to withhold reimbursement if the Lessor or the Assignee in good faith determines that withholding payment of such Impositions would materially endanger the Lessor's or such Assignee's right, title or interest in the Equipment or its proceeds.

In the event any reports with respect to Impositions are required to be made on the basis of individual Items of Equipment, the Lessee will either make such reports in such manner as to show the interests of the Lessor and the Assignee in such Items of Equipment or notify the Lessor and such Assignee of such requirement and make such reports in such manner as shall be satisfactory to the Lessor and such Assignee.

In the event that, during the continuance of this Lease, any Imposition accrues or becomes payable or is levied or assessed (or is attributable to the period of time during which this Lease is in existence) which the Lessee is or will be obligated to pay or reimburse, pursuant to this Section 10.2, such liability shall continue, notwithstanding the expiration of this Lease, until all such Impositions are paid or reimbursed by the Lessee.

SECTION 11. INSURANCE; PAYMENT FOR CASUALTY OCCURRENCE FOR EQUIPMENT UNSERVICEABLE FOR USE.

11.1. Insurance. During the period of this Agreement, the Lessee agrees, with respect to the exposure of physical loss or damage to each item of equipment for which it assumes full responsibility as between Lessee and Lessor, that it will maintain either a program of self-insurance, or a program of All Risk of Physical Loss and Damage Insurance, as is customary for companies owning property of similar

character and engaged in a business similar to that engaged in by the Lessee. A policy or policies of Insurance if maintained will inure to the benefit of Lessee and will include by use of a standard provision the interests of the Lessor. Such policy or policies will be in an amount in total of not less than the combined value of each Item from time to time as would be considered as actual cash value by railroad companies in possession of the Equipment. Any such insurance shall include a waiver of subrogation in favor of the Lessor and may have applicable thereto deductible provisions, provided it is expressly understood and agreed that any loss, cost, or expense arising out of the use of a deductible shall be exclusively the cost and expense of the Lessee.

The policy or policies shall be endorsed to provide that any loss in an amount of not more than \$35,000.00 shall be made payable only to the Lessee and will be used by the Lessee to either repair or replace the damaged or lost Equipment or turned over to the Lessor for the purpose of reducing the amount of the Casualty Value of the Item. A loss in excess of that amount, to be coordinated by the Lessee with the applicable Underwriters, shall be payable to the Lessee and Lessor with the proceeds at the option of the Lessee, to be used either to repair or replace damaged or lost Equipment or in turn to be turned over to the Lessor for the purpose of reducing the amount of the Casualty Values for any and all units.

The Lessee further agrees during the period of this Agreement that it will maintain a program of Comprehensive Liability insurance which is customary for companies owning property of similar character and engaged in a business similar to that engaged in by the Lessee, under which it will be permissible to include a self-insured level of retention to be for the account of Lessee, covering all operations of the Lessee which shall include as an Additional Insured the Lessor. Such program of Comprehensive Liability insurance will provide a limit of liability combined per occurrence for bodily injury or property damage of not less than \$1,000,000.00.

At the request of the Lessor, Lessee shall furnish Certificates of Insurance evidencing coverage described above on which will be stated that the Lessor shall be given thirty (30) days' prior written notice of any material change or cancellation of the insurance.

11.2. Duty of Lessee to Notify Lessor. In the event that any Item of Equipment shall be or become lost,

stolen, destroyed, or, in the opinion of the Lessee, irreparably damaged during the term of this Lease, including any renewal term hereunder, or thereafter while the Item of Equipment is in the possession of the Lessee pursuant to Section 13 or 15 hereof, or shall be requisitioned or taken over by any governmental authority under the power of eminent domain or otherwise during the term of this Lease, including any renewal terms hereunder (any such occurrence, except for any requisition which by its terms is for an indefinite period or is for a stated period which does not exceed the remaining term of this Lease, being hereinafter called a Casualty Occurrence), the Lessee shall promptly and fully (after it has knowledge of such Casualty Occurrence) inform the Lessor and the Assignee in regard thereto and shall pay the Casualty Value (as herein defined) of such Item in accordance with the terms hereof.

11.3. Sum Payable for Casualty Loss. Subject to Section 11.1 hereof, the Lessee shall, on the Term Lease Commencement Date or the Fixed Rental payment date following its knowledge of a Casualty Occurrence with respect to any Item of Equipment, pay to the Lessor the Interim Daily Rental or Fixed Rental installment due on such rental payment date for such Items of Equipment plus a sum equal to the Casualty Value of such Item or Items of Equipment as of the date of such payment. In the event that an Item of Equipment suffers a Casualty Occurrence at the end of the term of this Lease or after termination hereof and before such Item shall have been returned in the manner provided in Section 13 hereof, the Lessee shall promptly and fully notify the Lessor with respect thereto and pay to the Lessor not as a penalty, but as liquidated damages promptly upon demand of the Lessor an amount equal to 40% of the Purchase Price of such Item.

11.4. Option Retirement of Equipment. When, in the good faith judgment of a Vice President or Treasurer and the Secretary or an Assistant Secretary of the Lessee, not less than twenty Items of Equipment then leased hereunder shall have become economically unserviceable, the Lessee may upon not less than 90 days' prior written notice to the Lessor, which notice shall identify such Items of Equipment and designate the date on which termination will be effective, terminate this Lease with respect to such Items of Equipment as of the payment date for the twentieth installment of Fixed Rental or as of any succeeding payment date for Fixed Rental during the original term of this Lease with respect to such Items of Equipment upon payment to the Lessor of an amount equal to the Casualty Value of such Item or Items of Equipment (together with the installment of Fixed Rental then due in respect of such Item or Items of Equipment). For the purposes of this

Section 11.4, interest rates or similar finance charges payable by the Lessee in connection with the acquisition of similar equipment under conditional sales contracts, leases or other arrangements for deferred payment of the purchase price, shall be disregarded in the determination of economic unserviceability and the Lessee shall so certify in writing in connection with any such termination.

11.5. Rent Termination. Upon (and not until) payment of the Casualty Value in respect of any Item or Items of Equipment and the Interim Rental or Fixed Rental installment due on such payment date, the obligation to pay rental for such Item or Items of Equipment accruing subsequent to the Casualty Value payment date shall terminate, but the Lessee shall continue to pay rental for all other Items of Equipment.

11.6. Disposition of Equipment. Any Item or Items of Equipment having suffered a Casualty Occurrence or having been the subject of a determination of economic unserviceability pursuant to Section 11.4 hereof shall be sold for cash as soon as reasonably possible for the highest price reasonably obtainable pursuant to a purchase offer obtained by either the Lessor or the Lessee, each of whom shall put forth a reasonable effort to obtain such price. Any such disposition shall be on an "AS IS, WHERE IS" basis without representation or warranty, express or implied. As to each separate Item of Equipment so disposed of, the Lessee may, provided no Event of Default shall have occurred and is continuing, receive or retain, as the case may be, all amounts of such price plus any insurance proceeds and damages received by the Lessee by reason of such Casualty Occurrence or economic unserviceability determination up to the Casualty Value attributable thereto, but shall not receive or shall remit, as the case may be, the excess, if any, to the Lessor. In disposing of such Item or Items of Equipment, the Lessee shall take such action as the Lessor shall reasonably request to terminate any contingent liability which the Lessor might have arising after such disposition from or connected with such Item or Items of Equipment. Neither the Lessee nor any "affiliate" (as that term is hereinafter defined) of the Lessee shall be permitted to purchase any Item of Equipment with respect to which this Lease has been terminated pursuant to Section 11.3 or Section 11.4. Any sale or other disposition pursuant to this Section 11.6 must be effective to fully divest the Lessor of all of the Lessor's right, title and interest in and to, and all obligations of the Lessor with respect to, such Item or Items. It is understood and agreed that any out-of-pocket costs or expenses reasonably incurred by the Lessor or the Lessee in connection with the sale or other disposition of any Item of Equipment shall be deducted from the excess, if any, of sale proceeds over the then applicable

Casualty Value in computing any amounts due and owing to the Lessee hereunder and to the extent there is no such excess, the Lessee agrees to reimburse the Lessor for such expense.

For purposes of this Section 11.6, the term "affiliate" shall mean any subsidiary of the Lessee or any corporation or other person reported in the published financial statements of the Lessee in accordance with generally accepted accounting principles.

11.7. Casualty Value. The Casualty Value of each Item of Equipment shall be an amount determined as of the date the Casualty Value is paid as provided in this Section 11 (and not the date of the Casualty Occurrence) equal to that percentage of the Purchase Price of such Item of Equipment set forth in the Schedule of Casualty Values attached hereto as Schedule B opposite such date of payment.

11.8. Risk of Loss. The Lessee shall bear the risk of and, except as hereinabove in this Section 11 provided, shall not be released from, its obligations hereunder in the event of any Casualty Occurrence to any Item of Equipment after the date hereof and continuing until payment of the Casualty Value and the Interim Rental or Fixed Rental installments due on and prior to the date of payment of such Casualty Value in respect of such Item of Equipment has been made, such Item or the salvage thereof has been disposed of by the Lessee and the title to such Item or the salvage thereof and all risk of loss and liabilities incident to ownership have been transferred to the purchaser of such Item or the salvage thereof.

11.9. Eminent Domain. In the event that during the term of this Lease the use of any Item of Equipment is requisitioned or taken by any governmental authority under the power of eminent domain or otherwise for an Indefinite Period (as hereinafter defined) or a stated period which exceeds the remaining term of this Lease, the Lessee's duty to pay rent shall terminate as of the Interim Rental or Fixed Rental payment date next succeeding such requisition or taking and the Lessee shall pay to the Lessor the higher of the fair market value of such Equipment (as determined in accordance with the procedures set forth in Section 20.2(b) hereof) or the Interim Rental or Fixed Rental installment due on such date plus the Casualty Value then due and owing. In the case of any other requisition or taking the Lessee's duty to pay rent shall continue for the duration thereof. So long as no Event of Default shall have occurred and be continuing under this Lease and no event has occurred and is continuing which, with the passage of time or the giving of notice, or both, could constitute an Event of Default hereunder, the Lessee shall (a) be entitled to receive

and retain for its own account all sums payable for any taking which is not for an Indefinite Period or for a stated period which exceeds the term of the Lease by such governmental authority as compensation for requisition or taking of possession to an amount equal to the rental paid or payable hereunder for such period, and the balance, if any, shall be payable to and retained by the Lessor as its sole property; and (b) shall, in the event the Lessee has paid the Casualty Value and rental then due or fair market value of the Equipment, be entitled to the proceeds from the sale of the Equipment as and when the same is sold up to the Casualty Value of the Equipment with the excess thereof to be retained by the Lessor.

"Indefinite Period" shall for purposes of this Section 11.9 mean a requisition or taking by any governmental authority under the power of eminent domain or otherwise for an indefinite period either (a) in respect of which the requisition or taking (x) occurred prior to the tenth Fixed Rental payment date and (y) remains indefinite as of the twelfth Fixed Rental payment date, or (b) in respect of which the requisition or taking (x) occurred on or after the tenth Fixed Rental payment date and (y) remains indefinite as of the second Fixed Rental payment date next succeeding such requisition or taking.

SECTION 12. FINANCIAL AND OTHER REPORTS.

12.1. Status Reports. On or before April 1 in each year, commencing with the year 1979, the Lessee will furnish to the Lessor or its assigns an accurate statement, as of the end of the preceding calendar year (a) showing the numbers of the Items of Equipment then leased hereunder, the amount, description and numbers of all Items of Equipment that may have suffered a Casualty Occurrence during each calendar year (or since the date of this Lease, in the case of the first such statement), and such other information regarding the condition or repair of the Equipment as the Lessor may reasonably request, and (b) stating that, in the case of all Equipment repainted during the period covered by such statement, the markings required by Section 4 hereof shall have been preserved or replaced, and (c) describing the insurance coverage maintained by the Lessee pursuant to Section 11.1 hereof.

12.2. Lessor's Inspection Rights. The Lessor and the Lessor's assigns shall each have the right, at its sole cost and expense, by its authorized representative, to inspect the Equipment and the Lessee's records with respect thereto, at such times during normal business hours following at least three days' prior written notice to the Lessee as shall be reasonable to confirm to the Lessor or its assigns the existence and proper maintenance thereof during the continuance of this Lease.

SECTION 13. RETURN OF EQUIPMENT UPON EXPIRATION OF TERM.

Upon the expiration of the term of this Lease, the Lessee will, at its own cost and expense, at the request of the Lessor, deliver possession of the Equipment to the Lessor upon such storage tracks within the continental United States as the Lessor may designate and the Lessee will pay for the storage of the Equipment on such tracks for a period not exceeding 90 days (commencing after 90% of the Items of Equipment then leased hereunder have been delivered to such place of storage, it being understood and agreed by the Lessee that as to the remaining 10% of the Items it shall provide up to 90 days free storage with respect thereto from and after the date such Item is delivered to such place of storage) and transport the same at any time within such 90 day period to any connecting carrier for shipment, all as directed by the Lessor upon not less than thirty (30) days' written notice to the Lessee. All movement and storage of each Item of Equipment is to be at the risk and expense of the Lessee. During any such storage period the Lessee will permit the Lessor or any person designated by it, including the authorized representative or representatives of any prospective purchaser of any Item of Equipment to inspect the same; provided, however, that the Lessee shall not be liable, except in the case of negligence of the Lessee or of its employees or agents, for any injury to, or the death of, any person exercising, either on behalf of the Lessor or any prospective purchaser, the rights of inspection granted under this Section. Each Item of Equipment returned to the Lessor pursuant to this Section 13 shall (i) be in the same order, repair and condition as when originally delivered to the Lessee, ordinary wear and tear excepted, and (ii) meet all applicable standards of the United States Department of Transportation and shall comply with any applicable interchange rules of the Association of American Railroads. The assembling, delivery, storage and transporting of the Equipment as hereinbefore provided are of the essence of this Lease, and upon application to any court of equity having jurisdiction in the premises the Lessor shall be entitled to a decree against the Lessee requiring specific performance of the covenants of the Lessee to so assemble, deliver, store and transport the Equipment. All per diem and incentive per diem charges (and charges similar thereto) earned or paid to the Lessee in respect of the Equipment after the date of termination of this Lease shall belong to the Lessor and, if received by the Lessee, shall be promptly turned over to the Lessor. The Lessee shall in addition pay to the Lessor for each day after termination an amount equal to .02099% of the Purchase Price of such Item of Equipment for each such day until such Item is returned.

SECTION 14. DEFAULT.

14.1. Events of Default. If, during the continuance of this Lease, one or more of the following events ("Events of Default") shall occur:

(a) Default shall be made in the payment of any part of the rental or other sums provided in Section 2 hereof or Section 11 hereof and such default shall continue for five calendar days after written notice thereof from the Lessor; or

(b) Any representation or warranty made by the Lessee herein or in any statement or certificate furnished to the Lessor pursuant to or in connection with this Lease proves untrue in any material respect as of the date of issuance or making thereof; or

(c) The Lessee shall make or permit any unauthorized assignment or transfer of this Lease or possession of the Equipment or any portion thereof; or

(d) Default shall be made in the observance or performance of any other of the covenants, conditions and agreements on the part of the Lessee contained herein and such default shall continue for thirty (30) days after written notice from the Lessor to the Lessee, specifying the default and demanding the same to be remedied; or

(e) The Lessee shall become insolvent or bankrupt or admit in writing its inability to pay its debts as they mature or shall make an assignment for the benefit of its creditors; or

(f) Bankruptcy, reorganization, arrangement or insolvency proceedings or other proceedings for relief under any bankruptcy or similar law or laws for the relief of debtors shall be instituted by or against the Lessee, or the Lessee shall permit or there shall occur any involuntary transfer of its interest hereunder or of all or substantially all of the Lessee's property by bankruptcy or by the appointment of a receiver or trustee or by execution or by any judicial or administrative decree or process or otherwise; unless in every such case such proceedings (if instituted against the Lessee) shall be dismissed or such assignment, transfer, decree or process shall within 60 days from the filing or other effective date therein be nullified, stayed or otherwise rendered ineffective, or unless any such receiver or trustee shall within 60 days from the date of his appointment adopt and assume this Lease without modification of the terms and

conditions hereof pursuant to due authority of law and of the court appointing him;

then, in any such case, the Lessor, at its option, may:

(1) proceed by appropriate court action or actions, either at law or in equity, to enforce performance by the Lessee of the applicable covenants of this Lease or to recover damages for the breach thereof; or

(2) by notice in writing to the Lessee, terminate this Lease, whereupon all right of the Lessee to the use of the Equipment shall absolutely cease and terminate as though this Lease had never been made, but the Lessee shall remain liable as hereinafter provided; and thereupon, the Lessor may by its agents enter upon the premises of the Lessee or other premises where any of the Equipment may be located, without judicial process if this can be done without breach of the peace, and take possession of all or any of such Equipment and thenceforth hold, possess and enjoy the same free from any right of the Lessee, or its successors or assigns, to use the Equipment for any purpose whatever; but the Lessor shall, nevertheless, have a right to recover from the Lessee any and all amounts which under the terms of this Lease may be then due or which may have accrued to the date of such termination (computing the rental for any number of days less than a full rental period by a fraction of which the numerator is such accrued number of days in such rental period and the denominator is the total number of days in such full rental period) and also to recover forthwith from the Lessee (i) as damages for loss of the bargain and not as a penalty, whichever one of the following sums the Lessor, in its sole discretion, shall specify with respect to all Items of Equipment by written notice to the Lessee: (x) a sum with respect to each Item of Equipment then leased hereunder, which represents the excess of the present worth, at the time of such termination, of all rentals for such Item which would otherwise have accrued hereunder from the date of such termination to the end of the term of this Lease over the then present worth of the then Fair Rental Value of such Item for such period computed by discounting from the end of such term to the date of such termination rentals which the Lessor reasonably estimates (determined by applying the standards and criteria set forth in Section 20.2(b) hereof) to be obtainable for the use of the Item during such period, such present worth to be computed in each case on a basis of a 4.5% per annum discount, compounded semiannually from the respective dates upon which rentals would have been payable hereunder had this Lease not been terminated, or (y) an amount equal to the excess, if any, of the Casualty Value of each Item of Equipment then

leased hereunder as of the Fixed Rental payment date on or immediately preceding the date of termination over the Fair Market Value thereof (as determined in accordance with the procedures set forth in Section 20.2(b) hereof); provided, however, that in the event the Lessor shall have sold any Item of Equipment, the Lessor in lieu of collecting any amounts payable to the Lessor by the Lessee pursuant to the preceding clauses (x) or (y) of this part (i) with respect thereto, may, if it shall so elect, demand that the Lessee pay the Lessor and the Lessee shall pay to the Lessor on the date of such sale, as liquidated damages for loss of a bargain and not as a penalty, an amount equal to the excess, if any, of the Casualty Value of such Item of Equipment, as of the Fixed Rental payment date on or immediately preceding the date of termination over the net proceeds of such sale, and (ii) any damages and expenses, including reasonable attorney's fees, in addition thereto which the Lessor shall have sustained by reason of the breach of any covenant or covenants of this Lease, other than for the payment of rental.

14.2. Cumulative Remedies. The remedies in this Lease provided in favor of the Lessor shall not be deemed exclusive, but shall be cumulative, and shall be in addition to all other remedies in its favor existing at law or in equity. The Lessee hereby waives any requirements of law, now or hereafter in effect, which might limit or modify any of the remedies herein provided, to the extent that such waiver is permitted by law. The Lessee hereby waives any and all existing or future claims of any right to assert any offset against the rental payments due hereunder, and agrees to make the rental payments regardless of any offset or claim which may be asserted by the Lessee on its behalf against the Manufacturer, Sparks or any other party (which offsets and claims, if any, the Lessee reserves to assert against any such party) in connection with the Lease of the Equipment.

14.3. Lessor's Failure to Exercise Rights. The failure of the Lessor to exercise the rights granted it hereunder upon any occurrence of any of the contingencies set forth herein shall not constitute a waiver of any such right upon the continuation or recurrence of any such contingencies or similar contingencies.

SECTION 15. RETURN OF EQUIPMENT UPON DEFAULT.

15.1. Lessee's Duty to Return. If the Lessor shall terminate this Lease pursuant to Section 14 hereof, the Lessee shall forthwith deliver possession of the Equipment to the Lessor. Each Item of Equipment returned to the Lessor pursuant to this Section 15.1 shall (i) be in the same order, repair and

condition as when originally delivered to the Lessee, ordinary wear and tear excepted, and (ii) meet all applicable standards of the United States Department of Transportation and shall comply with any applicable interchange rules of the Association of American Railroads. For the purpose of delivering possession of any Item of Equipment to the Lessor as above required, the Lessee shall at its own cost, expense and risk (except as hereinafter stated):

(a) Forthwith assemble and place each such Item of Equipment upon such storage tracks within the continental United States as the Lessor may designate or, in the absence of such designation, as the Lessee may select;

(b) Provide storage at the risk of the Lessee for each Item of Equipment on such tracks without charge for insurance, rent or storage until such Equipment has been sold, leased, or otherwise disposed of by the Lessor; and

(c) Transport the Equipment to any place of interchange on the lines of a railroad within a 25-mile radius of such storage tracks, all as the Lessor may reasonably direct upon not less than thirty (30) days' written notice to the Lessee.

15.2. Specific Performance. The assembling, delivery, storage and transporting of the Equipment as hereinbefore provided are of the essence of this Lease, and upon application to any court of equity having jurisdiction in the premises, the Lessor shall be entitled to a decree against the Lessee requiring specific performance of the covenants of the Lessee so as to assemble, deliver, store and transport the Equipment.

15.3. Lessor Appointed Lessee's Agent. Without in any way limiting the obligations of the Lessee under the foregoing provisions of this Section 15, the Lessee hereby irrevocably appoints the Lessor as the agent and attorney of the Lessee, with full power and authority, at any time while the Lessee is obligated to deliver possession of any Item of Equipment to the Lessor pursuant hereto, to demand and take possession of such Item of Equipment in the name and on behalf of the Lessee from whomsoever shall be at the time in possession of such Item of Equipment provided that the Lessee shall have received five days' prior written notice of any such demand and/or retaking.

SECTION 16. ASSIGNMENT BY LESSOR.

This Lease shall be assignable in whole or in part by the Lessor upon receipt of prior written consent (which

consent shall not be unreasonably withheld) from the Lessee. Upon receipt of the consent of the Lessee to any such assignment the rental and other sums payable by the Lessee which are the subject matter of the assignment shall be paid to such assignee. Without limiting the foregoing, the Lessee further acknowledges and agrees that (i) the rights of any such assignee in and to the sums payable by the Lessee under any provisions of this Lease shall not be subject to any abatement whatsoever, and shall not be subject to any defense, setoff, counterclaim or recoupment whatsoever whether by reason of defect in Lessor's title, or any interruption from whatsoever cause in the use, operation or possession of the Equipment or any part thereof, or any damage to or loss or destruction of the Equipment or any part thereof, or by reason of any other indebtedness or liability, however and whenever arising, of the Lessor to the Lessee or to any other person, firm or corporation or to any governmental authority or for any cause whatsoever, it being the intent hereof that the Lessee shall be unconditionally and absolutely obligated to pay the assignee all of the rents and other sums which are the subject matter of the assignment, and (ii) the assignee shall have the sole right to exercise all rights, privileges and remedies (either in its own name or in the name of the Lessor for the use and benefit of the assignee) which by the terms of this Lease are permitted or provided to be exercised by the Lessor.

It is further understood and agreed that the right, title and interest of any such assignee in, to and under the Lease and the rents and other sums due and to become due under the Lease shall by the express terms granting and conveying the same be subject to the interest of the Lessee's quiet enjoyment thereof.

SECTION 17. ASSIGNMENTS BY LESSEE; USE AND POSSESSION.

17.1. Lessee's Rights to the Equipment. So long as the Lessee shall not be in default under this Lease, the Lessee shall be entitled to the possession and use of the Equipment and to the quiet enjoyment thereof in accordance with the terms of this Lease. The Lessee shall not assign, transfer or encumber its leasehold interest under this Lease in any of the Equipment, except to the extent permitted by the provisions of Section 17.2 hereof. The Lessee shall not part with the possession or control of, or suffer or allow to pass out of its possession or control, or sublease any of the Equipment, except to the extent permitted by the provisions of Section 17.2 hereof.

17.2. Use and Possession by Lessee. The Lessee agrees that the Equipment will be used solely within the

continental limits of the United States of America, Canada or Mexico, provided that the Lessee shall not permit more than 25% of the Items of Equipment at any time to be located outside the United States and that in no event shall the Lessee use, assign or permit the assignment of any Item of Equipment to service involving the regular operation and maintenance thereof outside the continental United States. The Lessee agrees that it will not, without prior written consent of the Lessor, which consent shall not be unreasonably withheld, assign this Lease or any of its rights hereunder or sublease any Item of Equipment; provided, however, that such consent shall not be required for (i) the sublease of any Item of Equipment to a direct or indirect subsidiary of the Lessee, provided that each such sublease shall be made expressly subject and subordinate to this Lease, or (ii) the use of any Item of Equipment by the Lessee's suppliers, customers and consignees of goods being shipped in the usual interchange of traffic. Any such assignment or sublease shall by its express terms be made subject and subordinate to this Lease and the terms and provisions hereof. No assignment or sublease entered into by the Lessee hereunder shall relieve the Lessee of any liability or obligations hereunder, which shall be and remain those of a principal and not a guarantor.

The Lessee may receive and retain for its own account such compensation for assignment or subletting the Equipment and/or for use of the Equipment by others as the Lessee may determine. Without limiting the foregoing, it is contemplated that the Lessee shall collect and retain for its own account all mileage allowances, rentals and/or other compensation (hereinafter referred to as "Mileage") payable by carriers by reason of the use, ownership, or operation of the Equipment, and if for any reason the Lessor shall receive any Mileage then, unless an Event of Default (or event which with the lapse of time or giving of notice, or both, would become an Event of Default) shall have occurred and be continuing, the Lessor shall promptly remit without interest said Mileage to the Lessee after the Lessee shall have furnished to the Lessor an opinion, ruling or other evidence reasonably satisfactory to the Lessor's legal counsel to the effect that the Lessor may remit all or any portion of said Mileage to the Lessee without violation of the provisions of 49 U.S.C. Section 46, as amended, or any other applicable law or regulation. The obligation of the Lessor under the next preceding sentence shall survive termination of this Lease.

17.3. Merger, Consolidation or Acquisition of Lessee. Nothing in this Section 17 shall be deemed to restrict the right of the Lessee to assign or transfer its leasehold interest under this Lease in the Equipment or possession of

the Equipment to any solvent corporation (which shall have duly assumed in writing the obligations hereunder of Lessee) into or with which the Lessee shall have become merged or consolidated or which shall have acquired the property of the Lessee as an entirety or substantially as an entirety, provided that any such assignee, successor or transferee will not, upon giving effect to such merger or consolidation or acquisition of properties, (a) be in default under any provision of this Lease, (b) have a net worth (determined in accordance with generally accepted principles of accounting) less than that of the Lessee immediately preceding such merger, consolidation or acquisition, and (c) have altered in any way the Lessee's obligations to the Lessor hereunder which shall be and remain those of a principal and not a guarantor.

If after giving effect to such merger, consolidation or acquisition, the requirements of Section 17.3(b) would not be met, the Lessee shall on the Fixed Rental payment date next preceding the date of such merger, consolidation or acquisition terminate this Lease by paying to the Lessor the higher of the then applicable Casualty Value of the Equipment or the Fair Market Value thereof (determined in accordance with the procedures set forth in Section 20.2(b) hereof). Promptly thereafter the Lessor shall sell or otherwise dispose of the Equipment and distribute the proceeds therefrom in the manner contemplated by Section 11.6 hereof. Prior to any such sale or other disposal the Lessor shall offer the Lessee a right of first refusal purchase option with respect to the manner and upon the terms contemplated by Section 20.1 hereof.

SECTION 18. LESSOR'S REPRESENTATIONS AND WARRANTIES.

The Lessor represents and warrants that as of the date of execution hereof:

(a) The Lessor is a corporation duly organized, validly existing and in good standing under the laws of its jurisdiction of incorporation; and has requisite power and authority and all necessary licenses and permits to own its respective properties and to carry on its business as now conducted; and is duly licensed or qualified and is in good standing as a foreign corporation in each jurisdiction in which such qualification is necessary to carry out the terms of this Lease;

(b) The execution and delivery by the Lessor or the Acquisition Agreement and this Lease and compliance by the Lessee with all of the provisions of said instruments--

(i) are within the corporate powers of the Lessee;
and

(ii) will not violate and will not conflict with or result in any breach of any of the terms, conditions or provisions of, or constitute a default under the Articles of Incorporation or By-laws of the Lessor.

SECTION 19. LESSEE'S REPRESENTATIONS AND WARRANTIES; SURVIVAL.

19.1. Representations and Warranties. The Lessee represents and warrants that as of the date of execution hereof:

(a) The Lessor is a corporation duly organized, validly existing and in good standing under the laws of its jurisdiction of incorporation; has all requisite power and authority and all necessary licenses and permits to own its respective properties and to carry on its business as now conducted; and is duly licensed or qualified and is in good standing as a foreign corporation in each jurisdiction in which such qualification is necessary to carry out the terms of this Lease;

(b) The execution and delivery by the Lessor of the Acquisition Agreement and this Lease and compliance by the Lessee with all of the provisions of said instruments--

(i) are within the corporate powers of the Lessee; and

(ii) will not violate and will not conflict with or result in any breach of any of the terms, conditions or provisions of, or constitute a default under the Articles of Incorporation or By-laws of the Lessor.

(c) No Event of Default as defined in this Lease has occurred and is continuing and no event has occurred and is continuing which with the lapse of time or the giving of notice, or both, would constitute an Event of Default as herein defined;

(d) No approval, consent or withholding of objection on the part of any regulatory body, state, Federal or local, is necessary in connection with the execution and delivery by the Lessee of this Lease or compliance by the Lessee with any of the provisions of any said instrument.

19.2. Survival. The representations and warranties contained in this Section 19 shall survive the execution and delivery of this Lease.

SECTION 20. RIGHT OF FIRST REFUSAL AND OPTION TO RENEW.

20.1. Right of First Refusal. Provided that the Lessee is not in default hereunder, the Lessor shall not, at

any time during the term of this Lease, sell the Equipment unless:

(a) the Lessor shall have received from a responsible purchaser or purchasers a bona fide offer, or offers, satisfactory to the Lessor in writing to purchase all or any portion of the Items of Equipment;

(b) the Lessor shall have given the Lessee written notice (i) setting forth in detail the identity of such purchaser, the proposed purchase price, the proposed date of purchase and all other material terms and conditions of such purchase, including, without limitation, any arrangements for the financing of such purchase known to the Lessor, and (ii) offering to sell such Items of Equipment to the Lessee upon the same terms and conditions as those set forth in such notice; and

(c) the Lessor shall not have received written notification from the Lessee within 20 days following receipt of such notice by the Lessee of its election to purchase such Items of Equipment upon such terms and conditions.

This right of first refusal shall expire after the Lessee's first failure or refusal to exercise its purchase rights under this Section 20.1

20.2. Renewal Options. Provided that the Lessee is not in default hereunder, the Lessee shall have the option to renew and extend this Lease as to all but not less than all, of the Items of Equipment then leased hereunder at the expiration of the original term for one renewal term of five years upon and subject to the terms and conditions herein contained for the original term of this Lease; provided that the ten semiannual Fixed Rental payments for and during such renewal term shall be as on Schedule A. The renewal term shall commence immediately upon the expiration of the original term. The Lessee shall give the Lessor written notice of any such election 180 days prior to the commencement of the renewal term provided for in this Section 20.

20.3. Delivery of Equipment. Unless the Lessee has elected to purchase the Equipment then leased hereunder or to renew this Lease in respect of such Items of Equipment as provided in this Section 20, all of such Items of Equipment shall be returned to the Lessor at the end of the original term, or the then current renewal term, as the case may be, in accordance with Section 13 hereof.

SECTION 21. INTEREST ON OVERDUE RENTALS AND AMOUNTS PAID BY THE LESSOR.

Anything to the contrary herein contained notwithstanding, any nonpayment of the Interim Rental or the Fixed Rental due hereunder, or amounts expended by the Lessor on behalf of the Lessee, shall result in the obligation on the part of the Lessee to pay also an amount equal to 8.5% per annum (or the maximum rate allowed by law, whichever is less) on the overdue rentals and amounts expended for the period of time during which they are overdue or expended and not repaid.

SECTION 22. MISCELLANEOUS.

22.1. Notices. Any notice required or permitted to be given by either party hereto to the others shall be deemed to have been given when deposited in the United States mail, certified, postage prepaid, addressed as follows:

If to the Lessor:

Gulf Oil Financial Corporation
P. O. Box 2227
Houston, TX 77001
Attention: Assistant Treasurer

If to the Lessee:

Gulf Oil Company, U.S.
P. O. Box 3706
Houston, TX 77001
Attention: Traffic Manager, Equipment Operations

or addressed to either party at such other address as such party shall hereafter furnish to the other party in writing.

22.2. Execution in Counterparts. This Lease, and any lease supplemental hereto, may be executed in several counterparts, each of which so executed shall be deemed to be an original and in each case such counterparts shall constitute but one and the same instrument.

22.3. Law Governing. This Lease shall be construed in accordance with the laws of Texas; provided, however, that the parties shall be entitled to all rights conferred by any applicable federal statute, rule or regulation.

22.4. Successors and Assigns. This Lease shall be binding upon and shall inure to the benefit of the Lessor and the Lessee and their respective permitted successors and assigns.

22.5. Headings and Table of Contents. All Section headings and the Table of Contents are inserted for convenience only and shall not affect any construction or interpretation of this Equipment Lease.

22.6. Severability. Any provision of this Lease which is prohibited or unenforceable in any jurisdiction shall be, as to such jurisdiction, ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provisions in any other jurisdiction.

IN WITNESS WHEREOF, the parties hereto have caused this Lease to be executed by their respective officers thereunder duly authorized and their corporate seals to be hereto affixed as of the day and year first above written.

GULF OIL FINANCIAL CORPORATION

(Corporate Seal)

By *Joseph S. Mahaffey*
Its Executive Vice President

ATTEST:

LESSOR

W. H. [illegible]
Assistant Secretary

GULF OIL CORPORATION

(Corporate Seal)

By *[Signature]*
Chairman, Gulf Oil Chemicals *KCK*
Company, a Division of Gulf
Oil Corporation LESSEE

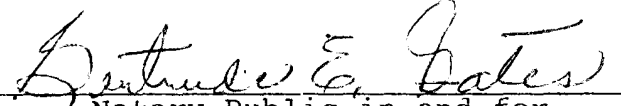
ATTEST:

W. H. [illegible]
Assistant Secretary

STATE OF TEXAS)
) SS
COUNTY OF HARRIS)

BEFORE ME, the undersigned authority, personally appeared Joseph D. Mahaffey to me personally known, who being by me duly sworn, says that he is Executive Vice President of GULF OIL FINANCIAL CORPORATION, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors; and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this the 12th day of May, 1978.



Notary Public in and for

Harris County, Texas

GERTRUDE E. GATES

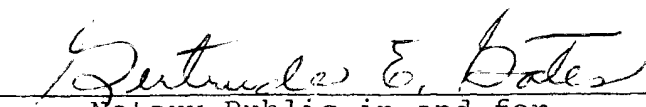
Notary Public in and for Harris County, Texas

My Commission Expires September 30, 1978

STATE OF TEXAS)
) SS
COUNTY OF HARRIS)

BEFORE ME, the undersigned authority, personally appeared Z. D. Bonner to me personally known, who being by me duly sworn, says that he is Chairman, Gulf Oil Chemicals Company, a Division of GULF OIL CORPORATION, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors; and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this the 12th day of May, 1978.



Notary Public in and for

Harris County, Texas

GERTRUDE E. GATES

Notary Public in and for Harris County, Texas

My Commission Expires September 30, 1978

CERTIFICATE OF ACCEPTANCE

TO: GULF OIL FINANCIAL CORPORATION

PULLMAN, INC.

SPARKS INDUSTRIAL SERVICE, INC.

I, a duly appointed and authorized representative of the Lessee under the Equipment Lease dated as of December 31, 1976 between the Lessor and the Lessee, all as named in such Equipment Lease, do hereby certify that I inspected, received, approved and accepted delivery under the Equipment Lease of the following Items of Equipment, each of which has had applied thereto by Sparks Industrial Service, Inc. a two coat interior lining:

TYPE OF EQUIPMENT: 100-ton covered hopper car
with roller bearings

PLACE ACCEPTED:

DATE ACCEPTED:

NUMBER OF UNITS:

NUMBERED:

I do further certify that each Item of Equipment described above is in good order and condition, and appears to conform to the specifications applicable thereto and to all applicable United States Department of Transportation and Interstate Commerce Commission and other United States agency requirements and specifications, and that each Item has been marked in accordance with Section 4.2 of the Equipment Lease.

I do further certify that each Item of Equipment described above has been labeled by means of a plate or a stencil printed in contrasting colors upon each side of the Item in letters not less than one inch in height as follows:

"Gulf Oil Financial Corporation, Owner,
leased to Gulf Oil Corporation"

The execution of this Certificate will in no way relieve or decrease the responsibility of Pullman, Inc. or Sparks Industrial Service, Inc. for any warranties it has made with respect to the Equipment.

DATED: , 1978.

Inspector and Authorized Representative of

SCHEDULE A

I. Description of Equipment: 918 - 100 - Ton 5320 C.F.C. Quadruple Covered Hoppers

Air Brake Equipment, complete with ABDW valve, 3-position retainer valve, ball angle cocks and welded fittings throughout including #8 vent valve complete with adapter tee and welded fittings, less cylinder

Hand Brakes, AAR vertical wheel, non-spin "Higher Power" #7 with sheave wheel

Couplers, solid butt Type E-60C-HT

Coupler Yokes, Y-40A-HT

Coupler Carrier wear plates-manganese steel

Draft Gears, AAR approved, Spec. M-901-E

Running Boards and End Platforms pregalvanized 66'-1" overall with cantilever type and extensions.

Hatch Covers, "Mon-O-Wheel" type

Discharge Gates, straight pneumatic "Micro-Matic"

ACI Labels

Vent hole covers, white polyurethane 60 durometer

Truck Bolsters, 6½" x 12" Grade "B" cast steel with center plate machined, 1-1/8" vertical manganese wear ring continuous welded, ¼" horizontal manganese wear plate loose and retained by the vertical wear ring

Truck Side Frames, 6½" x 12" Grade "B" cast steel with wear plates welded and lock bolted.

Axles, 6½" x 12", D-11 AAR Spec. M-101 Grade "F" D.N.&T

Wheels, 36" diameter one-wear, steel, Class "U" untreated

Roller Bearings, 6½" x 12" heavy duty "NFL" type

Roller Bearing Adapters, 6½" x 12" narrow pedestal type with hardened crowns and shoulders.

Stabilizers-Barber S-2-C 3-11/16" spring travel with double side coils and lock bolted wear plates and/or A-3 ride control 3-11/16" travel

Truck Springs, 3-11/16" travel-28 carbon o.c. and 24 i.c. alloy with Barber S-2-C stabilizer and/or 28 carbon o.c. and 36 I.C. alloy used with A-3 ride control

Truck Side Bearings, #688-B

Brake Beam Wear Plates #UW-33

Wabcopac Brake Units, 8½" complete with hand brake

Levers, Brake Badge Plate, Cobra Shoes, and Hose Connections

Brake Pins-Body-Hardened Type-(2) 1-3/32" dia. x 2½", (5) 1-3/32" dia. x 3", (1) 1-3/32" dia. x 4-3/4"

PAINT MATERIAL

Primer
Finish Grey
Anti-Skid Material
Stencil

II. Rentals

For purposes calculating all rental amounts, the Purchase Price shall be the sum of the actual cost of each Item of Equipment as invoiced by Pullman Standard; plus the actual invoiced cost of the liners from Sparks Industrial Service, Inc.; plus the actual invoiced transportation costs by the railroad delivering each Item of Equipment to its initial service point. The following is the schedule of lease rental payments:

Fixed Rentals

17 payments at 03.05194% of the Purchase Price
23 payments at 03.83116% of the Purchase Price

Renewal Option

10 payments at 01.94805% of the Purchase Price

III. Numbering of Equipment

Each Item of Equipment shall be numbered, beginning with GOCX - 58000 and ending with GOCX - 58917, all in accordance with pertinent rules and regulations regarding railroad equipment used in interstate commerce.

SCHEDULE B

CASUALTY VALUE CALCULATIONS

<u>Payment Number</u> <u>(Following the</u> <u>Payment)</u>	<u>Casualty Value as % of</u> <u>Total Cost of Hopper Car</u>
Interim	102.25
1	102.25
2	101.96
3	101.67
4	101.12
5	100.58
6	100.02
7	98.235
8	96.47
9	94.705
10	92.94
11	91.175
12	89.41
13	87.645
14	85.88
15	84.115
16	82.35
17	80.585
18	78.82
19	77.055
20	75.29
21	73.525
22	71.76
23	69.995
24	68.23
25	66.465
26	64.7
27	62.935
28	61.17
29	59.405
30	57.64
31	55.875
32	54.11
33	52.345
34	50.58
35	48.815
36	47.05
37	45.285
38	43.52
39	41.755
40	40

Interstate Commerce Commission
Washington, D.C. 20423

5/16/78

OFFICE OF THE SECRETARY

Gerald P. Thursmond
The Gulf Companies
1025 Conn. Ave., N.W. Suite 700
Washington, D.C. 20036

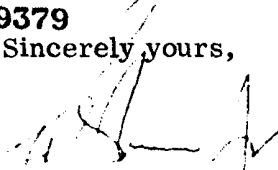
Dear

Sir:

The enclosed document(s) was recorded pursuant to the
provisions of Section 20(c) of the Interstate Commerce Act,
49 U.S.C. 20(c), on **5/16/78** at **9:45am**,
and assigned recordation number(s)

9379

Sincerely yours,


H.G. Homme, Jr.
Acting Secretary

Enclosure(s)

SE-30-T
(6/77)